

Title: Further discussion on Disapproval of the Employees' Provident Funds and Miscellaneous Providents (Amendment) Ordinance and Employees' Provident Funds and Miscellaneous Provisions (Amendment) Bill. Statutory Resolution - Withdrawn Motion for Consideration - adopted

15.55 hrs

SHRI BASU DEB ACHARIA (BANKURA): Mr. Speaker, Sir, what I was referring to yesterday was that there are a large number of public sector undertakings which have fallen sick, where the Provident Fund amount of the employees and the workers are not deposited. As a result of this, after retirement, the retired workers and employees do not get their retirement benefits. They are deprived of even their own share of the amount which is supposed to be deposited.

I know one public sector undertaking in the State of West Bengal, Jessop, which is more than 200 years old. This company is sick now. More than 700 workers have either retired or have taken voluntary retirement. Even after retirement, they have not yet received their Provident Fund amount. They have not received even their own share of it. The families of these retired workers are starving now.

The statutory due to be paid to the retired employees and workers of public sector undertakings is more than Rs.1,000 crore. The situation is worse in some of the private sector companies. How can these loopholes be plugged?

We support the provision that seeks to increase the contribution from 8.33 per cent to 10 per cent and provides for a maximum of 12 per cent. But merely increasing the contribution will not solve the problem of the workers unless some stringent measures are taken. There is no teeth in the labour laws. Most of the labour laws have become outdated. The hon. Minister who is presently looking after the Ministry of Labour has the experience to know that most of the labour laws have become outdated and lack teeth. There is a need for updating them. My submission is that some measures should be taken so that the retired employees are not deprived of their statutory dues and other retirement benefits.

With these words, I move my Statutory Resolution.

16.00 hrs.

MR. SPEAKER: Now, the hon. Minister may move the Bill for further consideration.

SHRI A.C. JOS (MUKUNDAPURAM): I have moved the Statutory Resolution.

THE MINISTER OF POWER (SHRI P.R. KUMARAMANGALAM): The position is that only the person who moves first will be given a chance to speak.

SHRI A.C. JOS : I understand it. I am opposing the Ordinance through this Statutory Resolution. So, I should be given a chance to speak.

MR. SPEAKER: No, it is not like that.

">SHRI P.R. KUMARAMANGALAM: Sir, I beg to move:

"That the Bill further to amend the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 as passed by the Rajya Sabha, be taken into consideration".

As the hon. Members are aware, the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 provides for institution of compulsory Provident Fund, Pension, Family Pension and Deposit Linked Insurance Fund for the benefit of employees in factories and other establishments. These schemes constitute the main source of security of income to the workers in their old age and their families and dependents in the event of their untimely death. Our Provident Fund Scheme is one of the oldest and largest schemes in the world in terms

of coverage and benefits provided. It covers most of the industrial and other establishments employing 20 or more persons. As on 31.3.1998, the total number of establishments covered was about 2.98 lakhs while the number of subscribers was 2.15 crores.

The Standing Committee of Parliament on Labour and Welfare had made certain suggestions for further amendment of the Act. The Central Board of Trustees, EPF had also made certain suggestions in this regard. Based on the suggestions received, it is now proposed to carry out the following amendments in the Act.

The most important amendment from the workers' point of view relates to enhancement of the rate of Provident Fund Contributions. At present, Section 6 of the EPF & MP Act provides for payment of contributions @ 8.33 per cent of the wages. However, there is an enabling provision for raising the rate of contribution to ten per cent. Under the enabling provision, the Central Government has already enhanced the rate of contribution to ten per cent in respect of 172 industries as against 177 covered under the Act. In order to ensure availability of higher retiral benefits to the employees, it is proposed to enhance the minimum rate of P.F. contribution from 8.33 per cent to ten per cent and maximum rate from ten per cent to twelve per cent of the monthly wage.

At present, the EPF & MP Act is not applicable to the employees employed in new factories/establishments which have not completed three years of their existence after registration/establishment. This provision has resulted in denial of social security benefits to about ten lakhs employed. It is, therefore, proposed to abolish the provision of three years infancy period and make the Act applicable to all factories/establishments, employing twenty or more persons, from the date they are set up.

At present, a person who is or has been or is qualified to become a judge of a High Court is eligible for appointment as the Presiding Officer of the EPF Appellate Tribunal. There have been difficulties in selecting personnel of the prescribed qualification for appointment as the Presiding Officer of the EPF Tribunal. In order to have a wider zone of consideration, it is proposed to make a person who is or has been or is qualified to be a District Judge as also eligible for appointment as the Presiding Officer of the EPF Appellate Tribunal.

These are, in short, the important amendments proposed through this Bill. The Standing Committee of Parliament on Labour & Welfare has considered and approved the provisions contained in the Bill. As the Bill has been pending in the House since 7.8.1997 and delay in passing the Bill was depriving the employees of higher retiral benefits, a Presidential Ordinance was issued and the provisions of the Bill were brought into force w.e.f. 22.9.1997.

As the provisions of the Bill are, by and large, of non-controversial nature, I hope the hon. Members will welcome the proposed amendments. With these words, I commend the Bill for consideration of the Houses.

MR. SPEAKER: Motions moved:

"That this House disapproves of the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Ordinance, 1998 (No.8 of 1998) promulgated by the President on 23 April, 1998".

"That the Bill further to amend the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, as passed by Rajya Sabha, be taken into consideration."

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डा. शकील अहमद (मधुबनी) : अध्यक्ष महोदय, मैं आपका आभारी हूँ कि मुझे कर्मचारी भविष्य निधि तथा प्रकीर्ण उपबंध (संशोधन) विधेयक, १९९८ पर बोलने का अवसर दिया। प्रोवीडेंट फंड हर एम्प्लॉई का अपनी कमाई से दिया गया हिस्सा होता है जिसमें एम्प्लॉयर अपना शेयर मिलाकर देते हैं। यह गवर्नमेंट साइड में होता है, पब्लिक अंडरटेकिंग्स में होता है और कुछ बड़ी कम्पनियाँ जो गवर्नमेंट की तर्ज पर अपने एम्प्लॉइज़ को बैनीफिट्स देना चाहती हैं, वे देती हैं। यह उनका अपना कमाया हुआ पैसा होता है। लेकिन हमने कई बार देखा है, सरकारी संस्थाओं, पब्लिक अंडरटेकिंग्स और गैर-सरकारी संस्थाओं में जो सरकारी तौर पर अपने एम्प्लॉइज़ की रिटायरमेंट के बाद या उनकी असमय मृत्यु के बाद उनके परिवार के लोगों को पैसा देना चाहते हैं, उनको अपना प्रोवीडेंट फंड लेने में बड़ी कठिनाई होती है। इसमें करप्शन भी होता है, इससे कोई इंकार नहीं कर सकता। इसलिए मेरा आग्रह है, मंत्री जी यहां बैठे हैं, एक कानून बनाया जाए कि यदि कोई व्यक्ति रिटायर होता है या किसी एम्प्लॉई की असमय मौत हो जाती है और एम्प्लॉयर उसके प्रोवीडेंट फंड का पैसा देने में एक निश्चित अवधि के बाद बिना किसी कारण देर करता है, तो बैंक का जो इंटरस्ट रेट मिलता है, वही इन्टरस्ट रेट एम्प्लॉयर से लेकर उस एम्प्लॉई को देना चाहिए। मैं समझता हूँ कि ऐसा कानून बनना चाहिए, इससे एम्प्लॉइज़ को फायदा होगा।

यह बिल कंटीब्यूशन बढ़ाने के लिए है इसलिए इससे किसी को आपत्ति नहीं हो सकती। लेकिन मैं एक-दो बातों की ओर आपका ध्यान आकृष्ट करना चाहता हूँ।

16.07 hrs. (Prof. Rita Verma in the Chair)

सभापति महोदया, आप बड़े अच्छे समय पर आई हैं। मैं आपका ध्यान आकृष्ट करना चाहता हूँ। आप पैरा तीन पढ़ें -

"A person shall not be qualified for appointment as a Presiding Officer of a Tribunal (hereinafter referred to as the Presiding Officer unless he is, or has been, or is qualified to be,---"

सभापति महोदया, मैं आपका ध्यान चाहूंगा। मंत्री जी, क्या आपने फैसला कर लिया है कि केवल पुरुष ही किसी ट्रिब्यूनल का प्रिजाइडिंग ऑफिसर होगा। इसमें आपको

he or she

इन्क्लूड करना चाहिए। मेरी राय है कि यह होना चाहिए।

... (व्यवधान)

श्री सत्य पाल जैन (चंडीगढ़): जनरल क्लॉजेज एक्ट के मुताबिक-

Wherever there is 'he', it means 'she' also.

डा. शकील अहमद : जो व्यक्ति नहीं जानता, वह इसे इस्तेमाल कर लेगा। ... (व्यवधान)

"... unless he is, or has been, or is qualified to be,--

(i) a Judge of a High Court; or

(ii) a District Judge."

डिस्ट्रिक्ट जज और हाई कोर्ट के जज में किसी को आपत्ति नहीं है लेकिन आपने जो

is qualified to be

लिखा है, डिस्ट्रिक्ट जजों के क्वालीफिकेशन हर राज्य में करीब-करीब अलग हैं। उनकी क्वालीफिकेशन कि लॉयर होना चाहिए, इतने दिन की प्रैक्टिस होनी चाहिए, उसके बाद हाई कोर्ट में भी कुछ जज ऐसे हैं जो बैंक से आते हैं, बाहर से आते हैं, इससे उनमें कन्फ्यूजन होगा। इसलिए मैं चाहता हूँ कि इसमें

qualified to be को नहीं रखा जाए, **serving, retire, present** कोई भी हो सकता है।

ये हाई कोर्ट का जज रख रहे हैं और अमैंडमेंट ऑफ सैक्शन ७(f)

में लिखा है-

"The Presiding Officer shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the High Court ..."

एक तरफ आप हाई कोर्ट के जज को ट्रिब्यूनल का प्रिजाइडिंग ऑफिसर बना रहे हैं और दूसरी तरफ उसी के समकक्षीय व्यक्ति से उसके विरुद्ध इन्क्वायरी या मिसबिहेवियर के चार्ज की जांच कराएंगे। यह अच्छा नहीं लगता। इसलिए मेरा आग्रह है कि यदि प्रिजाइडिंग ऑफिसर डिस्ट्रिक्ट जज हो तो उसकी जांच हाई कोर्ट के जज से कराई जाए लेकिन यदि प्रिजाइडिंग ऑफिसर हाई कोर्ट का समकक्षीय जज हो, तो उसकी जांच सुप्रीम कोर्ट के जज से करानी चाहिए।

इन्हीं बातों के साथ, यदि आप ऐसा सुधार करेंगे तो मैं इस बिल का समर्थन करूंगा नहीं तो मैं इसके मत में नहीं हूँ।

">SHRI TAPAN SIKDAR (DUMDUM): Madam, I would like to support this Bill because there are many aspects in this Bill which take care of the interest of the employees as well as the health of the industry.

Firstly, it increases the PF contribution of the employees which will help the employees in times of need and also after retirement. Secondly, this abolishes the infancy period of three years which was introduced previously for new industries. So, that has also been abolished. I think with this abolition, the family of the person who may die in between this period will also become the beneficiary by this way.

Another aspect is also very important. One of my honourable friends mentioned about it. The appointment of the Presiding Officer of this Appellate Tribunal is very significant. It is because it was decided previously that only a man qualified to be a High Court judge is eligible to be the Chairman or the Presiding Officer of this Appellate Tribunal but afterwards, you may say that through this Bill, a district judge will also become qualified to become the Presiding Officer. That is also very helpful. It is because High Court judges do not care to see the matter seriously and the area is also of concern. It is because people from far-east areas are also not in a position to always reach the tribunal headed or presided by the High Court judge. With these aspects, I think this Bill will be passed automatically as the Opposition Members are also supporting it. This is my view.

SHRI BHUBANESWAR KALITA (GUWAHATI): Madam Chairperson, I am on a point of order. The conduct of High Court judges cannot be discussed in this House. The hon. Member has mentioned that High Court judges cannot see the matter seriously. This sentence should be expunged from the record.

MR. CHAIRMAN : The matter shall be looked into and we shall decide it.

SHRI TAPAN SIKDAR : This matter has been mentioned in the Bill also. I am supporting this Bill for all these aspects and I am also requesting the hon. Members of the House to pass this Bill.

">SHRI AJOY MUKHOPADHYAY (KRISHNAGAR): Madam, I rise to support this Bill with some reservation. The Bill seeks to amend Section 6 of the principal Act with a view to enhance the rate of provident fund contribution from 8.33 per cent to 10 per cent and from 10 per cent to 12 per cent. The workers of this country were so long fighting for removal of the discrimination which was there in the principal Act. Why are there two sets of contribution like minimum and maximum? This is not proper. The Standing Committee also recommended to remove the discrimination and raise both the rates to 12 per cent. I have suggested an amendment in that respect. The plea of the Labour Ministry is to keep the lower rate in five industries including jute industry.

They have stated it in their notification, dated 9th April, 1997. Their plea is mainly about sickness. Due to sickness, they have made this provision. But such a plea is not tenable. So far as the rate of provident fund contribution is concerned, sickness cannot be a criterion in fixing the rate of contribution. Today, one industrial unit is sick. But tomorrow, it may be revived or vice versa. So, I quote what the Standing Committee had categorically stated:

"The Committee deliberated the clause in detail. Members were of the view that by restricting the minimum contribution to eight per cent in establishments which are sick or the industries which have been referred to BIFR, the employees of those industries would be deprived of the higher retiral benefits simply because of no fault of theirs.

The Committee are of the view that there should be no discrimination in the matter of contribution between the employees of sick industries and the employees of other establishments. The Committee, therefore, recommend that the Ministry of Labour, in consultation with concerned Ministries, should review and explore the possibility

of having uniform rate of provident fund contribution at 12 per cent in all kinds of establishments covered under the Act."

I do not know why the Government has ignored this specific recommendation of the Standing Committee. It was a well-considered recommendation of the Standing Committee. I would cite an example. The jute barons of West Bengal are the biggest defaulters of provident fund. And you are exempting that industry from the higher contribution. What is the reason behind it? Is there any reason? No. There is no reason. So, I would request you to consider that this anomaly should go. You must accept the amendment given by me.

This is a social security measure. So many Acts are there. But the problem is with the implementation. Is it being implemented? If it is being implemented, how is it possible that hundreds of crores of rupees of the workers are lying in the coffers of the employers? Just now, Shri Basu Deb Acharia has mentioned the case of Jessop & Co. This is not an isolated case. This is a regular feature that employees are being denied their statutory dues, including provident fund, even after their retirement. And the Ministry of Labour has no teeth. I would like to know from Shri P.R. Kumaramangalam, who is now the Minister in charge of the Ministry of Labour. He happens to be the labour leader. I would like to know whether he has any plan to give some teeth to the Ministry of Labour. It is being marginalised like anything. The Ministry of Labour has no say. Everything is being dictated by the Ministry of Finance. Even the statutory dues like payment of wages are being denied to thousands of workers of this country.

The next point I would like to make is that default in payment of provident fund in respect of workers' contribution is a criminal offence.

But the default in payment of provident fund in respect of the employers contribution is not a criminal offence. A Committee was set up by the Consultative Committee on Labour, I happened to be a Member of that Committee, and that Committee suggested that the Provident Fund Act should be thoroughly amended to give some teeth to this Organisation and also to the Labour Ministry. But nothing was done. Consequently, hundreds of crores of rupees belonging to the workers - the share of the employees and the employers - are not being paid. The employees are being denied of their own share even after retirement. So, only passing the Bill with some amendments is not at all enough. The Government would have to implement it.

Madam, the next point that I would like to make is about the amount of contribution. The amount of contribution is being increased. So, the total accumulation is going to increase. Naturally, the workers could expect a higher rate of interest as well. The Government would invest this money somewhere and the workers obviously would expect some increased rate of interest on this. What is the response of the Government on this aspect? The Government is silent on this point.

Madam, the next point that I would like to make is about the mismanaged affairs of the Provident Fund Organisation. Hundreds of crores of rupees, which are due by way of provident fund, has not been paid to the workers who have retired from service. Why is it so? It is lying with the Provident Fund Organisation. Why? The hon. Labour Minister is not present here but he has assured the other House that the Government would constitute a House Committee to go into the details of the mismanagement of this Provident Fund Organisation. If a House Committee is constituted then, we expect that Members of this House would also be included in that Committee which is being set up to ascertain the real causes of default and how such things could be removed. These are basically the reasons for which the hon. Labour Minister has agreed to constitute a House Committee. I would like to know from the hon. Minister whether the Members of this House would also be included in that Committee or not.

Madam, the Working Class in this country is the biggest victim of the policies of liberalisation. I would like to submit that the prosperity and the progress, of which we often boast of, could not have been possible but for the boundless sacrifices of the Working Class in this country. But they are being neglected. We are discussing about industry-friendly Budget; we are discussing about industry-friendly decisions but we never talk about labour-friendly Budget and labour-friendly decisions. It has been my experience since 1989. I had been a Member of the Consultative Committee on Labour and had also been a Member of the Departmentally-related Standing Committee on Labour and Welfare since its inception.

This is my experience. All the misery has fallen upon the working class of this country. The union leaders come to Delhi just to meet the Members of Parliament, so that they can approach the Minister to regularise the payment of wages and also to get their retirement benefits, including the Provident Fund and gratuity.

So, I would request the entire House, it is high time we should think over the matter more seriously and take some steps to redress their real grievances. Otherwise, the day is not far off when these people, the backbone of our country, will not sit idle any more. With these words I would request the Minister to accept my amendment and to respond to the problems which I have raised just now.

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श्री मोहन सिंह (देवरिया): सभापति महोदय, यह एक अच्छा विधेयक है और मैं कुछ टिप्पणियों के साथ इस विधेयक का समर्थन करना चाहता हूँ। कारण यह कि मजदूरों के हित में यदि अच्छे कदम उठाए जाते हैं, चाहे गलत लोगों द्वारा भी उठाए जाते हैं, तो उसका समर्थन किया जाना चाहिए। मैं इस विधेयक का समर्थन करता हूँ।

दूसरी बात, किसी भी सरकार के लिए यह अच्छी बात है कि प्रोविडेंट फण्ड के कन्ट्रीब्यूशन की सीमा बढ़ा दी गई है। मेरे विचार से केवल सीमा बढ़ा देना काफी नहीं है। हम लोगों का जो अनुभव है, उसके आधार पर हम कह सकते हैं, राज्य सरकारें, केन्द्रीय सरकार और निजी क्षेत्र के जो नियोजक हैं, वे कर्मचारियों को समय पर उनकी सेवा निवृत्ति के साथ उनके प्रोविडेंट फण्ड का भुगतान नहीं करते हैं। इस विषय पर अपने क्षेत्र में और आस-पास के जो निजी क्षेत्र के मालिक हैं, उनसे अक्सर इस सवाल पर संघर्ष होता है। सेवा निवृत्त होने पर वे कहते हैं कि मेरे पास प्रोविडेंट फण्ड को वापिस करने के लिए धन नहीं है, इसलिए आप इस उम्र में भी, जितना पैसा आप पा रहे हैं, उतने में काम करते रहिए। वे दो-तीन बरस तक उसी प्रकार काम करते रहते हैं और उनको परेशानी रहती है। इस स्थिति में हम लोगों को सिफारिश करनी पड़ती है। राज्य सरकारें उस प्रोविडेंट फण्ड के पैसे को विकास के कार्यों में लगा देती हैं और रिटायरमेंट के बाद राज्य सरकार के कर्मचारी, केन्द्रीय सरकार के कर्मचारी, दो-दो, तीन-तीन साल तक दफ्तर के चक्कर लगाते रहते हैं, लेकिन उनको उनका पैसा नहीं मिलता है। नियम बनें हैं कि रिटायर होने के बाद एक महिने के पहले ही प्रोविडेंट फण्ड का पूरा भुगतान करने का इंतजाम सरकार करेगी, लेकिन ऐसा होता नहीं है। इसलिए मेरा निवेदन है कि सरकार को इस बारे में सोचना चाहिए।

महोदय, मुझे एक बात से परेशानी होती है। कोई कमीशन बनता है, तो उसमें जज साहब आ जाते हैं। पता नहीं किस खुशी में आ जाते हैं, कल भी आ गए थे और आज भी आ गए। श्रम विभाग में ऐसे ईमानदारी अधिकारी हैं, जिन्होंने जीवनभर मजदूरों के हित में काम किया है। सेवा निवृत्त होने के बाद जब श्रम विभाग के ट्रिब्यूनल में नियुक्त किए जा सकते हैं, तो इसमें क्यों नहीं किए जा सकते हैं। हाई कोर्ट का जज होने से...

श्री पी. आर. कुमारमंगलम: क्वालिफिकेशन।

श्री मोहन सिंह : क्वालिफिकेशन श्रम विभाग के अधिकारियों की होना जरूरी नहीं है। उन्होंने एलएलबी किया है और उनकी सारी जिन्दगी इसी बात में लगी है कि उन्होंने मजदूरों के साथ रहकर, मजदूरों के हित में और उनकी ओर से अन्याय के साथ लड़ाई लड़ी है और काम किया है। ऐसे व्यक्तियों को आप नहीं रख पायेंगे, क्योंकि उनमें योग्यता नहीं है और वह गलती से हाईकोर्ट या सुप्रीम कोर्ट का जज नहीं हो सकता है। इसलिए मेरा निवेदन है कि आप इन बातों पर गौर कीजिए, सभी मर्ज की दवा जज न मान लीजिए। इन सुझावों के साथ, आपके द्वारा प्रस्तुत विधेयक का समर्थन करते हुए, आपको धन्यवाद देता हूँ।

">DR. ULHAS VASUDEO PATIL (JALGAON): Madam, I would like to raise a few issues before the House regarding this issue. It is very good that the Provident Fund Scheme is extended to unorganised sector. I believe that this Bill would protect the interests of the unorganised sector. But there are certain shortcomings in the Bill. It should have been provided for in the Bill that if the provident fund is not attached with the worker, it would be treated as a criminal offence. There are some workers who do not receive provident fund even after their deaths. It is seen that a lot of beneficiaries are not traceable and their approach the Provident Fund Organisations for payment. There is no control on these organisations. They put forward demands to fulfil the requirements of those people. There is scope for corrupt practices in this. This problem requires to be solved.

It is good that the Bill provides for enhancement of employees contribution to 12 per cent and it also provides for increase of upper limit of gratuity to Rs.3 lakh. At present there are about 2.64 lakh establishments in which

about 1.93 crores of workers are employed. All these workers will be benefited by this legislation. But there are certain things which should be taken care of. Firstly, if there are some Provident Fund Organisations which do not effect the 12 per cent deduction, will the Government take serious steps to ensure the deduction of 12 per cent? Secondly, does the Government intend to deposit the Provident Fund in the secondary market? These are a few of the questions which I wish to ask the Minister. On the whole I support the Bill and congratulate the Minister for bringing it forth.

">SHRI N.K. PREMCHANDRAN (QUILON): Madam, I rise to support this Bill, especially on the point of enhancement of rate of contribution from 8.33 per cent to 10 per cent and from 10 per cent to 12 per cent.

This Scheme is detrimental to the interests of workers employed in organised sector. We had agitated on this point and that matter had already been discussed in Eleventh Lok Sabha.

I would like to highlight one point. I come from a constituency where there are lakhs of people traditionally employed in cashew, coir and other works. It seems to be beneficial to cashew and other traditional workers. But there is a hurdle for those workers in joining the Employees Provident Fund Pension Scheme. That is, those who are not members of the Family Pension Scheme of 1971 are being deprived of being members of this Scheme. I have learnt that some orders have been passed already to the effect that if a worker pays the entire amount of arrears from 1971 onwards, he will become eligible to get the benefits under the Provident Fund Pension Scheme. The main difficulty of these traditional workers is that they are living below poverty line and are not in a position to collect a huge amount of Rs.5,000 to Rs.15,000 to be paid for getting entitled to this Scheme. So, I would appeal to the Ministry of Labour to remove this hurdle and make a provision that the amount of arrears liable to be paid by a worker be deducted from his Fund and an opportunity be given to him to avail of this benefit. These poor workers who live below the poverty line should also be given the chance of getting the benefit of this Scheme. I would appeal to the hon. Minister to clarify the position of Government on this.

This is a very serious situation. This is affecting the poor farmers, cashew workers, coir workers and the traditional workers. As far as non-payment of the contribution on the part of the workers are concerned, I wish to say that contributions of workers are regularly deducted from the salaries or wages. But they are not being paid properly, and in time. No receipts are being given to these poor cashew and coir workers. I can cite a number of examples.

A lump sum amount is paid for 150 workers but no individual receipt is being given from the Provident Fund office. Poor traditional workers and illiterate cashew workers are not in a position to understand, whether their contributions have been paid; and whether receipts are given for the same. So, I would suggest that proper individual receipts should be given to each and every worker.

As far as non-payment of contribution to the workers are concerned, it is a criminal offence under this Act and that punishment should stringently be implemented. Unless and until we implement it, there is no use of this Act and there is no use of this beneficial legislation as far as workers are concerned.

As Comrade Ajoy Mukhopadhyay has already submitted - I was also a Member of the Consultative Committee of the Ministry of Labour - we have made certain proposals as far as these details are concerned. We could find a number of irregularities and default in the payment of Provident Fund contribution. Therefore, this matter has to be taken very seriously. Once again, I appeal to the hon. Minister to remove the hurdles so that the poor workers can also get the benefit without the payment of the entire arrears.

With these words, I once again support this Bill.

">SHRI MADHUKAR SIRPOTDAR (MUMBAI NORTH-WEST): Madam Chairperson, I rise to support the Provident Fund (Amendment) Bill.

Actually this particular Ordinance was referred to the Standing Committee and we had discussed practically all the aspects of this Bill in the Committee. We have made certain recommendations and we have requested the Government to please look into these recommendations and thereafter bring the Bill in Parliament for

enactment. I am happy that certain provisions have been incorporated but the rest of the recommendations have not been incorporated. Whenever such matters are adequately deliberated in the Parliamentary Standing Committee and recommendations made to the Government, it is the responsibility of the Government to look into the matter and to the best of its ability, it should try to incorporate the recommended provisions.

Here, what I note is that in this particular clause, the contributions have not been made equal to all industries. There is an exemption for sick industries. Earlier, the contribution was 8.33 per cent. Now, we have recommended 12 per cent. Then, why should there be differentiation? If at all any industry goes sick, one has to go into it thoroughly to know what were the factors which were responsible for the industries to go sick. If we go on giving such concessions, then it means that we are encouraging the industries to go sick. That should not happen.

Now, we have covered practically all the industries in Part-I. As far as the rate of contribution is concerned, I think, the Government should apply its mind.

The Government should review the things and see that this contribution is equally applicable to all the industries whether they are sick or not.

Secondly, if you look into all the aspects of the Provident Fund Section, there is a tremendous amount of recovery of arrears. We will have to make certain provisions in this Provident Fund Act to see that proper recoveries that too in time are made. Now, because of the lapse of time for recoveries, crores of rupees are still lying with the employers and the workmen are not getting the benefits of it. Not only that, but as has been rightly mentioned by some of the Members of this august House, even after retirement, those who had contributed during their life time, do not get their amount in time. Now, they are supposed to pay that amount within thirty days time. I have got a number of such examples where for more than a year the employees have not got their own amount.

SHRI AJOY MUKHOPADHYAY (KRISHNAGAR): They say that the employees are not getting their due for three years.

SHRI MADHUKAR SIRPOTDAR : There are a number of cases.

The provident fund is a machinery from where the Government is getting so much amount, but so much amount is pending with the Provident Fund Commissioner. I would like to know where are they going to utilise this amount and why those employees, who contribute during their life time, should not get their dues in time. Therefore, this Ministry has to pay more attention and has to see that the workmen get some relief from this. This is also an aspect, which, at least, this Government should try to solve.

Hon. Member, Shri Mukhopadhyay had cited some of the provisions of the report of the Standing Committee. I do not know whether in his speech, the hon. Minister would give an explanation as to why these provisions were incorporated in this Bill. I think, that will help the Members of Parliament to understand this.

SHRI P.R. KUMARAMANGALAM: Which are those provisions?

SHRI MADHUKAR SIRPOTDAR: It is on page 3. Next to that, that provision is there. Please see paragraphs 2.3 and 2.4 on page 4 also. These are regarding the contribution.

So, my humble submission to the Government is that whenever such reports are submitted to the Government, they should be properly and thoroughly studied and thereafter the recommendations of the Committee be taken into account. Otherwise, these Standing Committees would become meaningless. These are the Committees which are formed by the hon. Speaker and the functioning of these Committees is very important because the representatives of the people participate in these Committees. The reports of these Committees are unanimous, so these should be recommended and honoured. That is my humble submission to the Government.

With these words, I support the Bill.

">SHRI SUSHIL KUMAR SHINDE (SOLAPUR): Madam Chairman, I will not take more than a minute.

There are some mills and institutions where the provident fund is being contributed by workers and at the same time equal contribution is to be made by the employers. But when the cases of some of the mills are referred to the BIFR and BIFR orders for their closure, the units get completely closed down. In such conditions, the workers demand for their own provident fund.

In such cases, since the owner had already eaten away whatever money they had contributed, they allow just to get their part of money. The contribution of the owner has not been permitted because they form a trust like unit and thereby they siphon off the fund or they either divert it to some institution or some industry. The Government has to take into account such ticklish problems and find out the solution. There are so many workers.

SHRI MADHUKAR SIRPOTDAR: There is already a provision in the Act but it has not been implemented properly. ... (Interruptions)

SHRI SUSHIL KUMAR SHINDE : I will mention a specific case, Solapur Lakshmi Vishnu Mill. ... (Interruptions)

SHRI MADHUKAR SIRPOTDAR: I know that particular case. Their machinery is not acting ... (Interruptions)

MR. CHAIRMAN : There should not be any discussion between the Members.

SHRI SUSHIL KUMAR SHINDE: That is why, I would request the hon. Minister to take note of it and make it a cognizable offence.

SHRI A.C. JOS (MUKUNDAPURAM): As the hon. Minister has pointed out in his opening remarks, one of the biggest social security schemes ... (Interruptions)

MR. CHAIRMAN: We have taken enough time on this Bill. It is not just possible.

SHRI A.C. JOS (MUKUNDAPURAM): There is a very huge amount under the pension scheme attached to the provident fund. More than Rs.20,000 crore are there. It should be utilised properly so that pension can be enhanced occasionally and reviewed.

SHRI DILEEP SANGHANI (AMRELI): Madam, please allow me half a minute. ... (Interruptions)

SHRI MOHAN RAWAL : Madam, please allow me to speak. ... (Interruptions)

MR. CHAIRMAN: It is not just possible. We have already taken a lot of time on this Bill.

... (Interruptions)

SHRI P.R. KUMARAMANGALAM: Madam Chairman, I want to assure the hon. Members that if they write a letter to me, I will take steps immediately. ... (Interruptions)

MR. CHAIRMAN: You can go and meet the hon. Minister later on and give your suggestions.

Mr. Minister, you please give your reply.

SHRI P.R. KUMARAMANGALAM : Madam, I am grateful to the hon. Members of this House for their participation especially senior leaders of the labour movement. ... (Interruptions)

मीणा जी, आप लिखकर दे दीजिए, मैं कर दूंगा।

... (व्यवधान)

मैं कुछ न बोलूँ, बैठ जाऊँ। अभी चार बिल्स हैं और बजट भी है।

सभापति महोदय : कुमारमंगलम साहब, आप चेयर को एड्रेस कीजिए।

THE MINISTER OF POWER (SHRI P.R. KUMARAMANGALAM): I am grateful to the hon. Members for their valuable contribution during the discussion on this extremely important Bill.

In fact, this Bill came about at the instance of the Members of Parliament as well as the Standing Committee.

The most important point that was raised by the hon. Member, Shri Basudeb Acharia, that a large number of PSUs are not depositing the statutory provident fund dues and the employees, after retirement, are not getting the benefits of provident fund. This is the serious problem which we are facing.

With regard to the company which he had mentioned, namely Jossep & Co., a sum of Rs.14.15 crore is outstanding. We have taken every possible action to recover the statutory dues. In fact, I would inform the hon. Member that a group of Ministers was constituted last year to consider the payment of these dues, at least as a part of the Plan assistance because their wages themselves were paid as a part of the Plan assistance. Unfortunately that decision needs to be implemented.

I can assure the hon. Members that I will bring it to the notice of the Labour Minister so that that he takes appropriate steps to see that the decision of the Group of Ministers, is acted upon.

KUMARI MAMATA BANERJEE (CALCUTTA SOUTH): It should be for the maximum number of industries and not for any particular industry because there are so many industries.

SHRI P.R. KUMARAMANGALAM: It is for the maximum number of industries. It is for all the industries. This is not only with respect to Jessop Company Ltd. (Interruptions)

DR. ASIM BALA (NABADWIP): Was there any decision taken by Parliament?

MR. CHAIRMAN: Please do not disturb.

SHRI P.R. KUMARAMANGALAM: This is regarding all the industries. I want to assure the Members that this is the decision taken with regard to all the industries which fall in a similar situation to Jessop Company Ltd. In this case they have reached a situation where even their wages are being met by plan assistance. We will see all these cases and we will take care of them.... (Interruptions)

MR. CHAIRMAN: He has already assured.

SHRI P.R. KUMARAMANGALAM: What the hon. Member, Dr. Shakeel Ahmad has said is whether only men would be eligible for appointment as Presiding Officer of the Tribunal.(Interruptions)

DR. ASIM BALA : They are not paying dues to all those workers who have been working in the company itself. What action the Government has taken with regard to payment of provident fund?

AN HON. MEMBER: That has already been discussed.

DR. ASIM BALA : But no action has been taken. (Interruptions)

MR. CHAIRMAN: The Minister is not yielding. Please sit down.

... (Interruptions)

MR. CHAIRMAN: No cross talk please.

SHRI P.R. KUMARAMANGALAM: I would like to point out what exactly you have said. Under Clause 13(1) of the general clauses of the Act, the male gender includes the female and, therefore, he includes 'she'. Now, of course, in most laws, we use 'the person'; that the word 'person' is used rather than 'he' and 'she'. But this is one of our older laws. So, in the Amendment, keeping in consonance with the Act, they have used the word 'she'.

With regard to claims being settled under the statute, I would like to say that they have to be settled within 30 days. Otherwise, an interest of 12 per cent per annum is given to the member to protect him under the Act which has been brought now. If there are instant cases, I would request the hon. Member to write a letter to the Labour Minister and I can assure him that the Labour Minister will take steps.

KUMARI MAMATA BANERJEE How many letters?

MR. CHAIRMAN: Let him please reply.

SHRI A.C. JOS : This is not the proper way of answering. Have I to inform the Labour Minister? What is this?

MR. CHAIRMAN: There is no end to it.

SHRI A.C. JOS : We are discussing a Bill. It is not necessary to inform the Labour Minister. What is this? That is not the proper way of answering.

MR. CHAIRMAN: But we have had ample discussion. You got your chance to speak.

SHRI P.R. KUMARAMANGALAM: What the hon. Members must understand and appreciate is that though there is a uniform policy, though there is a notification, there are many instant cases coming up. I know, in my individual capacity as a Member of Parliament and as a labour leader, in many cases, actually the dues are not being settled and that is exactly why, I said, please bring individual cases to the notice of the Labour Minister. I have said it on the floor of the House and I have assured you that I will myself tell the Labour Minister that this was an assurance made by me and he should pay immediate attention to see that those problems are addressed. (Interruptions)

What you have said about the Finance Minister is right. When I mentioned the Group of Ministers.. (Interruptions)

MR. CHAIRMAN: Please do not interrupt.

... (Interruptions)

MR. CHAIRMAN: Let him speak.

SHRI P.R. KUMARAMANGALAM: This is not the way. Then I will have to sit down. ... (Interruptions) That is all right. I would not speak. (Interruptions)

MR. CHAIRMAN: You go and talk to the Minister later on.

... (Interruptions)

MR. CHAIRMAN: Only the Minister's speech will go on record.

(Interruptions)*

SHRI P.R. KUMARAMANGALAM: I recommend that the Bill be moved. (Interruptions) This is not the way. If anybody is going to ask any question, I am only going to sit down and ask that the Bill be moved. I would not respond because this is not the way. (Interruptions)

MR. CHAIRMAN: Shri Mohan Rawale, please cooperate. We do not have much time. Please cooperate.

SHRI P.R. KUMARAMANGALAM: With regard to the revision of qualification of the post of Presiding Officer, I wish to submit that, in fact, this is a very positive step which we have taken. They have said about that. I think they must understand that the qualifications of district judges are invariably laid down by regulations which are made on the recommendation of the High Courts.

About the higher rates of interest which some Members of Parliament have mentioned, we believe that it is more important that the monies of the workers are secure. We can go into the market but the Board of Trustees feels that putting money in either the share market or private investment is risky. We would like to put it on a secure basis. There are many Members of Parliament and leaders who have other ideas. If they wish it would be secure and at the same time gives better returns, I am sure, that the Board of Trustees will consider it.

SHRI BASU DEB ACHARIA : The Standing Committee can consider it.

*Not Recorded.

SHRI P.R. KUMARAMANGALAM: In the next Standing Committee we can pick it up.

With regard to the issue of discrimination the Standing Committee has made a recommendation and I must say that the actual problem is that all these

particular industries, all the five of them are really sick industries which have been kept out. The arrears are already to the tune of Rs.110 crores.

SHRI AJOY MUKHOPADHYAY (KRISHNAGAR): Will you yield for one minute?

SHRI P.R. KUMARAMANGALAM: No.

It can be considered at the appropriate time from the kitty.

MR. CHAIRMAN : Please do not respond to any interventions.

SHRI P.R. KUMARAMANGALAM: We said that we would take it up later. Let us go through this. ...
(Interruptions)

MR. CHAIRMAN: This is not done. Shri Mukhopadhyay, you have had ample time to speak.

SHRI P.R. KUMARAMANGALAM: We have instructed that the payments should be made within 31 days. I have already mentioned 12 per cent interest. I must say that action will be taken under Section 14, 14(a) etc. under the Act. It is necessary to point out that as on 1-4-1998, in 40,000 cases steps have been taken. In 1998, 1,666 cases were acted upon. In fact, we have convicted cases in the year numbering 1047 and we had recovered, by means of action in 1997-98, Rs.129 crore and Rs.83.46 crore in 1996-97. I am giving the figures for the last couple of years and what action has been taken. I think many Members are aware that even legal directors have been pulled up in this matter.

With regard to the higher rate of interest I have already submitted my view. With regard to the House Committee I wish to assure the Members that we have no objection, whatever, for the Members of this House to be Members of the House Committee and if Madam Chairperson directs, we can take the appropriate proceedings between the two Houses to see that a Joint Committee is constituted as a House Committee. We would bring a resolution to that effect.

I would only request that the present Bill be considered and passed as it is a major step for improving the retirement benefits of our employees. This has been long outstanding and, in fact, there has been substantial

delay. There has been a demand by the industrial workers that it should be from April 1995 but it has become September 1997 when the Ordinance came.

I would request that this Bill may be passed. There are various important amendments to be considered. We are in the process. Many labour laws need to be looked at. I think the Standing Committee also must have been constituted by now. It should also assist us in having a look at those laws so that appropriate steps can be taken to bring amendments to streamline, simplify and make the laws effective.

I would recommend that the Bill be passed by the House. Thank you.

17.00 hrs.

SHRI BASU DEB ACHARIA (BANKURA): Madam Chairperson, this Ordinance was first promulgated in 1997. The Bill was also introduced in 1997 and it was referred to the Standing Committee on Labour and Welfare. The Standing Committee also deliberated on the Bill... (Interruptions)

SHRI P.R. KUMARAMANGALAM: One minute, Acharia Ji.

Madam Chairperson, in my reply, at the end I did not make a request to Shri Basu Deb Acharia to withdraw his Statutory Resolution. In the light that this is a general and non-controversial Bill, I request that the hon. Member may kindly withdraw his Statutory Resolution.

SHRI BASU DEB ACHARIA : My intention was not to oppose the Bill.

Madam, there was enough scope to pass the Bill in the past also. We made certain suggestions in regard to implementation of some of the provisions of the existing Act which are not being properly enforced and also there is a need for updating and amending the existing laws. The Standing Committee on Labour and Welfare can consider that aspect also.

Another problem which has been highlighted by almost all the Members is the problem of default. Crores of rupees which are to be paid, are not being paid to the workers and the employees. This issue was raised during the last Lok Sabha in both the Houses.

MR. CHAIRMAN : Shri Basu Deb Acharia, please be brief. The Minister has already made a request to you.

SHRI BASU DEB ACHARIA : The Minister has also stated that a Group of Ministers was formed to examine this and to recommend to the Government how the problem not only of provident fund but also of gratuity, that is, the statutory dues, could be resolved.

The next Bill is coming and I have also tabled an amendment on that Bill. In view of the facts stated by the Minister and in view of the assurance given by him with regard to the formation of a House Committee and also with regard to streamlining, amending and updating the existing labour laws, I beg to withdraw the Statutory Resolution moved by me.

MR. CHAIRMAN: Has the hon. Member leave of the House to withdraw his Statutory Resolution?

SEVERAL HON. MEMBERS: Yes.

The Statutory Resolution was, by leave, withdrawn.

MR. CHAIRMAN : The question is:

"That the Bill further to amend the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: The House will now take up clause-by-clause consideration of the Bill.

Clause 2

MR. CHAIRMAN: There is an amendment to clause 2 to be moved by Shri Ajoy Mukhopadhyay. Shri Mukhopadhyay, are you moving your amendment?

SHRI AJOY MUKHOPADHYAY (KRISHNAGAR): Yes.

I beg to move:

"Page 1,-

for lines 7 to 10 substitute-

` "2. In section 6 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the principal Act), for the words "eight and one-third per cent. "and" ten per cent." wherever they occur, the words "twelve per cent." shall be substituted." ' " (1)

MR. CHAIRMAN: I shall now put amendment No. 1 moved by Shri Ajoy Mukhopadhyay to the vote of the House.

The amendment was put and negatived.

MR. CHAIRMAN: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

MR. CHAIRMAN : The question is :

That Clauses 3 to 6 stand part of the Bill.

The motion was adopted.

Clauses 3 to 6 were added to the Bill.

MR. CHAIRMAN : The question is :

That clause 1, the Enacting Formula and

the long title stand part of the Bill.

The Motion was adopted.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI P.R. KUMARAMANGALAM: I beg to move :

"That the Bill be passed."

MR. CHAIRMAN: The question is :

"That the Bill be passed."

The motion was adopted.
